

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
" A " BENCH, AHMEDABAD
(CONDUCTED THROUGH VIRTUAL COURT AT AHMEDABAD)

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 155/AHD/2020
निर्धारण वर्ष/Asstt. Year:2016-2017

Anveshan Textile Ltd., Arvind Mills Premises, Naroda Road, Ahmedabad. PAN: AAACA3495J	Vs.	D.C.I.T., Circle-1(1)(1), Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri Biren Shah, A.R
Revenue by :	Shri S.S. Shukla, Sr.D.R

सुनवाई की तारीख/**Date of Hearing** : **07/04/2022**
घोषणा की तारीख /**Date of Pronouncement**: **13/04/2022**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax(Appeals)-1, Ahmedabad, dated 08/01/2020 arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2016-2017.

2. The only issue raised by the assessee is that the Ld. CIT(A), erred in confirming the disallowance made by the AO for Rs. 8,50,930/- on account of non-deposit of Employee's Contribution to PF under the provision of section 36(1)(va) of the Act.

3. The AO during the Assessment proceedings found that the assessee has deposited Employee's contribution towards P.F beyond the due date specified under the PF Act. Thus, the AO treated the same as income of the assessee under the provision of section 2(24)(x) of the Act and disallowed the same under the provision of section 36(1)(va) of the Act. Thus the sum of Rs. 8,50,930/- was added to the total income of the assessee.

4. On appeal the Ld. CIT(A), also confirmed the order of the AO.

5. Being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

6. The Ld. AR before us submitted that the Employee's Contribution to the PF was paid before filing the return of income and therefore the same should be allowed under the provision of section 43B of the Act.

7. On the contrary, the Ld. DR vehemently supported the order the authorities below

8. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the Employees Contribution towards PF was deposited beyond the date specified under the PF Act. Therefore, the same cannot be allowed as deduction by virtue of the judgment of the Hon'ble Gujarat High Court in the case of CIT vs Gujarat State Road Transport Corp. reported in 41 taxmann.com 100 wherein it was held as under:

8. *In view of the above and for the reasons stated above, and considering section 36(1)(va) of the Income Tax Act, 1961 read with sub-clause (x) of clause 24 of section 2, it is held that with respect to the sum received by the assessee from any of his employees to which provisions of sub-clause (x) of clause (24) of section (2) applies, the assessee shall be entitled to deduction in computing the income referred to in section 28 with respect to such sum credited by the assessee to the employees' account in the relevant fund or funds on or before the "due date" mentioned in explanation to section 36(1)(va). Consequently, it is held that the learned tribunal has erred in deleting respective disallowances being employees' contribution to PF Account / ESI Account made by the AO as, as such, such sums were not credited by the respective assessee to the employees' accounts in the relevant fund or funds (in the present case Provident Fund and/or ESI Fund on or before the due date as per the explanation to section 36(1)(va) of the Act i.e. date by which the concerned assessee was required as an employer to credit employees' contribution to the employees' account in the Provident Fund under the Provident Fund Act and/or in the ESI Fund under the ESI Act.*

8.1 At the time of hearing the Ld. AR has not brought anything contrary to the findings of the Ld. CIT(A). Accordingly, we hold that no interference in the order of the lower authorities is warranted. Hence, the ground of appeal of the assessee is dismissed.

9. In the result, the appeal filed by the assessee is **dismissed**.

Order pronounced in the Court on 13/04/2022 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE,
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

Ahmedabad; Dated 13/04/2022
Manish

(True Copy)